

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:19 CV 125 WCM

CINDY DUCKWORTH

Plaintiff,

v.

ANDREW SAUL,
Acting Commissioner of the Social
Security Administration,

Defendant.

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ORDER

This matter is before the Court on Plaintiff's Petition for Attorney Fees under the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A) (Doc. 18).

Under the Equal Access to Justice Act ("EAJA"), the Court must award attorney's fees to a prevailing party in a civil action brought against the United States unless the Court finds that the Government's position was "substantially justified" or that "special circumstances" would make such an award unjust. 28 U.S.C. § 2412(d)(1)(A). Because the Court ordered this case be remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g), the Plaintiff is properly considered a "prevailing party" in this action. See Shalala v. Schaefer, 509 U.S. 292, 302, 113 S.Ct. 2625, 2635, 125 L.Ed.2d 239 (1993). An award of attorney's fees under the EAJA must be "reasonable." 28 U.S.C. 2412(A). It is within the Court's discretion to award attorney's fees

above the statutory hourly rate. See Payne v. Sullivan, 977 F.2d 900, 903 (4th Cir. 1992).

The Motion indicates that the parties have agreed Plaintiff should be awarded \$4,850.00 in attorney's fees for 26.4 hours of attorney work, Doc. 18, p. 1, which translates into a fee of \$183.71 an hour. Courts in this district have approved similar rates. See Ashcraft v. Berryhill, No. 3:13-CV-00417-RLV-DCK, 2017 WL 2273155, at *1 (W.D.N.C. May 24, 2017) ("Plaintiff is entitled to an award of attorney's fees under the EAJA at the requested rate of \$189.87 per hour"); Stacy v. Saul, No. 3:18-cv-279-MR-WCM, Doc. 24 (Jan. 29, 2020) (allowing hourly rate of \$201.58 for work performed in 2018 and \$205.23 for work performed in 2019, under the CPI-Urban). Plaintiff's counsel has also submitted a summary of time spent on this action. Doc. 18-1. After review and consideration of the Motion, the summary of time spent, and applicable authority, the Court finds that the amount sought is reasonable.

IT IS THEREFORE ORDERED THAT:

- (1) Plaintiff's Consent Motion for Fees Pursuant to the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A) (Doc. 18) is **GRANTED**, and Plaintiff is awarded attorney's fees in the amount of \$4,850.00 ("Fee Award").
- (2) As EAJA fees belong to the litigant and are subject to offset under the Treasury Offset Program, see Astrue v. Ratliff, 560 U.S. 586,

589 (2010), the Fee Award shall be paid by Defendant as follows:

- a. If Plaintiff has federal debt registered with the Department of the Treasury that may be offset by the Fee Award, such amount of the Fee Award as is necessary to satisfy Plaintiff's federal debt shall be so used, up to and including the entire amount of the Fee Award.
- b. The remaining balance of the Fee Award after application of the offset, if any, described above shall be delivered by Defendant to Plaintiff's counsel on behalf of Plaintiff.

Signed: March 25, 2020

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

